



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 20, 1996

Mr. David A. Montoya
Matthews & Branscomb
One Alamo Center
106 South St. Mary's Street
San Antonio, Texas 78205-3692

OR96-1729

Dear Mr. Montoya:

On behalf of the City Public Service Board of San Antonio ("CPA"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID#100853.

CPS received a request for "a copy of the proposal data sheets, from all bidders for CPS R.Q. 58272 and CPS R.Q. 58181." You inform us that the requested proposal data sheets reference the vendors' written quotations from the bid packages, so that compliance with the request would require CPS to disclose all or most of the vendors' bid responses. You assert that the requested information is excepted from public disclosure based on section 552.101 and 552.110 of the Government Code.

Since the property rights of third parties, the bidders, are implicated by the release of the requested information here, this office notified those parties of this request. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). Three parties responded to our notification: Waukesha Electric Systems, ABB Power T & D Company, Inc. and Kuhlman Electric Corporation.

Section 552.104 excepts from required public disclosure "information that, if released would give advantage to a competitor or bidder." The exception applies to information submitted to a governmental body in response to a competitive bidding notice or request for proposals. *See* Open Records Decision No. 541 (1990). You inform us that CPS held formal

public bid openings on June 21, 1996. You say that CPS is currently analyzing and evaluating the bids. You further explain the subsequent steps in the process for approval of the low responsible bid, a process you say will take several weeks. We conclude that CPS may withhold from the requestor the requested information based on section 552.104.¹

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 100853

Enclosures: Submitted documents

cc: Mr. Roger Torkelson
President
Hi-Volt Sales
123 North Seguin Street, Suite 101
New Braunfels, Texas 78130
(w/o enclosures)

Mr. Chuck Grice, Branch Manager
WESCO Distribution Company, Inc.
Representing ABB Poer T&D Company
P.O. Box 830107
San Antonio, Texas 78283
(w/o enclosures)

¹In light of our decision based on section 552.104, we need not address your section 552.110 claim or the third arguments at this time.

Mr. Byron Johnson
T.F. Sears Company
Representing Kuhlman Electric Corporation
12200 Ford Road, Suite 110
Dallas, Texas 75234
(w/o enclosures)

Mr. Luis Yuri-Luna
GE North American Power Systems Sales
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